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STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
LANSING

EPA Region 5 Records Ctr.



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STEVEN E. CHESTER
DIRECTOR

September 14, 2007

CERTIFIED MAIL

Mr. Matthew Zwack
Chief Financial Officer
Detroit Steel Company
1491 West Jefferson Avenue
Trenton, Michigan 48183

Mr. Michael Wilkinson
DSC, Ltd.
1491 West Jefferson Avenue
Trenton, Michigan 48183

Letter of warning

Dear Mr. Zwack and Wilkinson:

SUBJECT: Letter of Warning; Detroit Steel Company, LLC, and DSC, Ltd. (Collectively, DSC); Site Identification Nos. MIK 381 177 856 and MID 017 422 304, Respectively

On June 27, 2007, Michigan Department of Environmental Quality (DEQ), U.S. Environmental Protection Agency (U.S. EPA), U.S. Fish and Wildlife Service (U.S. FWS), and city of Trenton staff conducted an inspection of DSC, located at 1491 West Jefferson, Trenton, Michigan. The purpose of the inspection was to conduct a follow-up inspection in response to the oil fire on and adjacent to the Sedimentation Basin, which occurred on June 14, 2007, to determine the need for the U.S. EPA to perform emergency response actions to remove the accumulation of alleged hazardous wastes and waste oils, as well as to evaluate DSC's compliance with Part 111, Hazardous Waste Management, of Michigan's Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA); Part 121, Liquid Industrial Wastes, of the NREPA; the corresponding requirements under Subtitle C of the federal Resource Conservation and Recovery Act of 1976, as amended (RCRA); and any administrative rules or regulations promulgated pursuant to these acts. During the inspection, staff was accompanied by Mr. Matthew Zwack and Mr. Bob Wright of DSC.

A staff report, completed by Mr. Thomas Sampson of the MDEQ, Waste and Hazardous Materials Division (WHMD), is enclosed and describes the findings of the June 27, 2007, inspection.

As a result of the inspection, the WHMD has determined that DSC is in violation of the following at the above-referenced location:

1. A person who generates a solid waste must determine if that waste is a hazardous waste (Part 111, Rule 302 and Title 40 of the Code of Federal Regulations (CFR), Section 262.11).

DSC did not make available waste characterization data at the time of inspection for any of the numerous containers of alleged hazardous waste in the Drum and Oil

Hopper Storage Area and for those scattered about the property. There are approximately 100 55-gallon drums and 50 250-gallon totes located in the Drum and Oil Hopper Storage Area and approximately another 100 containers of varying sizes scattered about the property. There are also numerous small containers containing residuals of unknown chemicals in the facility's lab room. DSC must immediately characterize and manage waste in these containers in accordance with these rules.

2. The date upon which each period of accumulation began must be marked and visible for inspection on each hazardous waste container (Part 111, Rule 306(1)(b) and 40 CFR, Section 262.34(a)(2)).

DSC has failed to label the numerous containers of alleged hazardous waste in the Drum and Oil Hopper Storage Area and scattered about the property as required. If not already labeled, DSC shall immediately label all containers.

3. While being accumulated on-site, each container of hazardous waste must have the words "Hazardous Waste" clearly marked or labeled on it (Part 111, Rule 306(1)(c) and 40 CFR, Section 262.34(a)(3)).

DSC has failed to label each container allegedly containing hazardous waste with the words "Hazardous Waste." DSC shall immediately label all containers containing hazardous waste with the words "Hazardous Waste" as required.

4. While being accumulated on-site, each container of hazardous waste must have the hazardous waste number clearly marked or labeled on it (Part 111, Rule 306(1)(c)).

DSC has failed to clearly mark or label each container allegedly containing hazardous waste with the corresponding hazardous waste number. DSC shall immediately clearly mark or label all containers containing hazardous waste with the corresponding hazardous waste number.

5. A facility may accumulate hazardous waste on-site for less than 90 days, from the date upon which the period of accumulation began, without having a permit or without having interim status. A facility that stores hazardous waste for greater than 90 days has established a storage facility without the appropriate construction permit and/or operating license (Part 111, Sections 111.8(1) & 111.23(1)) (Rule 306(1) and 40 CFR, Section 262.34(a) and (b)).

Based on the condition of the containers and their surroundings, it appears that DSC has stored the alleged hazardous waste on-site for more than 90 days, making DSC subject to these requirements. DSC shall immediately arrange for the lawful disposal off all hazardous waste stored at the facility for greater than 90 days.

6. Container(s) of hazardous waste must be maintained in good condition. If it begins to leak, the facility must transfer the hazardous waste to a container that is in good

condition or manage the waste in some other way that complies with the requirement of 40 CFR, Section 265.171 (Part 111, Rule 306(1)(a) and 40 CFR, Section 262.34(a)(1)).

Many of the alleged hazardous waste containers that are being stored outside and exposed to weather show signs of damage, corrosion, or are otherwise in poor condition. There is visual evidence of releases from these containers. DSC must immediately transfer hazardous waste into containers that are in good condition.

7. A container holding hazardous waste must always be closed, except when adding or removing waste as required in 40 CFR, Section 265.173(a) (Part 111, Rule 306(1)(a) and 40 CFR, Section 262.34(a)(1)).

Many of the alleged hazardous waste containers are being stored with open bungs that have allowed waste to leak from the containers. DSC must immediately close all open containers such that waste cannot be released into the environment.

8. A container holding hazardous waste must not be opened, handled, or stored in a way that may rupture it or cause it to leak as required in 40 CFR, Section 265.173(b) (Part 111, Rule 306(1)(a) and 40 CFR, Section 262.34(a)(1)).

Many of the alleged hazardous waste containers that are being stored outside and exposed to weather show signs of damage, corrosion, or are in otherwise poor condition. There is visual evidence of releases from these containers. The containers are not being stored in secondary containment. DSC must immediately store containers in a manner that prevents failure of the containers and a release into the environment.

9. The facility must inspect areas where containers are accumulated, at least weekly, looking for leaks and for deterioration caused by corrosion or other factors as required in 40 CFR, Section 265.174 (Part 111, Rule 306(1)(a) and 40 CFR, Section 262.34(a)(1)).

During the inspection, DSC did not provide copies of weekly inspection reports for container accumulation areas. Effective immediately, DSC must perform weekly inspections of the waste accumulation area(s) and submit copies of the weekly inspection reports for the container accumulation area(s) to the MDEQ within seven days of the inspection.

10. Accumulated hazardous waste with free liquids or F020, F021, F022, F023, F026 and F027 waste is required to have a hazardous waste storage area, which includes (Part 111, Rule 306(1)(a) refers you to 40 CFR, Section 264.175):

- a. An impervious base free of cracks or gaps (40 CFR, Section 264.175(b)(1)).

- b. A sloped floor or a floor designed to elevate and protect containers from contact with liquids (40 CFR, Section 264.175(b)(2)).
- c. The capacity to hold ten percent of the volume of containers or the volume of the largest container, whichever is greater (40 CFR, Section 264.175(b)(3)).
- d. A way to prevent run-on or provide sufficient excess capacity for the volume of the containers and the run-on (40 CFR, Section 264.175(b)(4)).
- e. The removal of accumulated liquids in a timely manner to prevent overflow of the system (40 CFR, Section 264.75(b)(5)).

Many of the numerous containers of alleged hazardous waste in the Drum and Oil Hopper Storage Area, and those that are otherwise scattered about the facility, are not stored in a secondary containment structure(s) meeting the requirements of this rule. Specifically, containers in the Drum and Oil Hopper Storage Area are stored on bare ground and there is evidence of releases from these containers. DSC must immediately relocate these containers to an area that meets the requirement of this rule.

- 11. The hazardous waste accumulation area must be protected from weather, fire, physical damage, and vandals (Part 111, Rule 306(1)(e)).

Many of the alleged hazardous waste containers that are being stored outside and exposed to weather show signs of damage, corrosion, or are in otherwise poor condition. Security fencing at the southern property boundary shows signs of damage and does not prevent trespass and vandalism. DSC must immediately repair security fencing and relocate all containers to secured areas of the facility.

- 12. Hazardous waste must be accumulated so no hazardous waste constituent can escape by gravity into the soil, directly or indirectly, into surface water, groundwater, drains, or sewers, and such that fugitive emissions do not violate Part 55, Air Pollution Control, of the NREPA (Part 111, Rule 306(1)(f)).

Many of the numerous containers of alleged hazardous waste in the Drum and Oil Hopper Storage Area, and those that are otherwise scattered about the facility, are not stored in a secondary containment structure(s) meeting the requirements of this rule. Specifically, containers in the Drum and Oil Hopper Storage Area are stored on bare ground, and there is evidence of releases from these containers, which can escape by gravity into the soil, directly or indirectly, into surface water, groundwater, drains, or sewers. DSC must immediately relocate all containers to an area that meets the requirement of this rule and properly dispose of this waste.

- 13. The facility must be maintained and operated to minimize the possibility of fire, explosion, or the release of hazardous waste or hazardous waste constituents,

which could threaten human health and/or the environment (Part 111, Rule 306(1)(d): 40 CFR, Subpart C, Section 265.31).

At the time of inspection, security fencing at the southern property boundary was in disrepair, and there was accumulation of dry vegetation around surface impoundments and waste storage areas. DSC must maintain the facility and waste storage areas in a manner that meets the requirements of this rule.

14. The accumulation area(s) must be closed in a manner that controls/minimizes or eliminates, to the extent necessary to protect human health and the environment, the escape of hazardous waste or hazardous waste constituents, leachate, run-off to ground or surface waters and air (Part 111, Rule 306(1)(g): 40 CFR, Section 265.111(b)).

DSC shall undertake all interim response activities and corrective actions to close all waste management units in accordance with Section VIII of the Comprehensive Corrective Action And Remedial Consent Order For Trenton and Gibraltar Facilities (CACO), WMD Order No. 111-15-99, entered into on December 17, 1999, or sooner, as necessary, to protect human health and the environment, to prevent the escape of hazardous waste or hazardous waste constituents, leachate, or run-off to ground or surface waters and air.

15. The accumulation area(s) must be closed such that all contaminated equipment, structures, and soil are properly disposed (Part 111, Rule 306(1)(g): 40 CFR, Section 265.111(a)).

DSC shall undertake all interim response activities and corrective actions to close all waste management units in accordance with Section VIII of the CACO, or sooner, as necessary, to protect human health and the environment, to prevent the escape of hazardous waste or hazardous waste constituents, leachate, or run-off to ground or surface waters and air.

16. A generator of liquid industrial waste shall comply with the waste evaluation requirements of Part 111, and rules promulgated under that part, and maintain records of the characterization (Michigan Compiled Laws (MCL) 324.12103(1)).

DSC did not make available waste characterization data at the time of inspection for any of the numerous containers of alleged hazardous waste in the Drum and Oil Hopper Storage Area and for those scattered about the property. DSC must immediately characterize and properly manage waste in these containers in accordance with Part 111, Rule 302 and 40 CFR, Section 262.11.

17. A Generator of liquid industrial waste shall ensure the waste is protected from weather, fire, physical damage, and vandals. All vehicles, containers, and tanks used to hold liquid industrial waste shall be closed or covered except when

necessary to add or remove waste to prevent the escape of liquid industrial waste into the soil, surface or groundwater, or a drain or sewer (MCL 324.12113(1) and (2)).

Many of the numerous containers of alleged hazardous waste in the Drum and Oil Hopper Storage Area, and those that are otherwise scattered about the facility, are not stored in a secondary containment structure(s) meeting the requirements of this rule. Specifically, containers in the Drum and Oil Hopper Storage Area are stored on bare ground, and there is evidence of releases from these containers, which can escape by gravity into the soil, directly or indirectly, into surface water, groundwater, drains, or sewers. DSC must immediately relocate all containers to an area that meets the requirement of this statute and dispose of this waste.

Additionally, there are over 1,000 polychlorinated biphenyl- (PCB-) containing capacitors in the Capacitor Store Room located in the Slab Finishing Building that are in poor condition and leaking into secondary containment. These PCB-containing items are subject to corrective actions pursuant to a consent order entered into between the U.S. EPA and DSC. Questions regarding compliance with this order should be directed to Mr. Ken Zolnierczyk, Pesticide and Toxics Enforcement Section, U.S. EPA, Region 5, at 312-353-9687.

18. A used oil generator shall comply with the provisions of 40 CFR, Sections 279.22, 279.23, and 279.24, except Section 279.22(a). Used oil shall be stored in labeled containers, in good condition and free of structural defects, and not leaking. Used oil containers shall be stored in secondary containment structures designed and maintained to prevent the release of oil into the environment (Part 111, Rule 810(3)).

In the event that some or all of the numerous containers of alleged hazardous waste that are identified in the aforementioned citations are determined to be used oil, DSC has failed to manage these wastes as required by law. In addition, the storage of over 24 55-gallon drums (1,320 gallons) of used oil subjects DSC to the spill prevention, control, and countermeasure (SPCC) requirements of 40 CFR, Part 112, Oil Pollution Prevention, including the development of an SPCC plan for the DSC facility. Within 30 days of your receipt of this letter, a copy of the SPCC plan prepared pursuant to the requirements of 40 CFR, Section 112.3, shall be submitted to the attention of Mr. Lawrence AuBuchon, DEQ, WHMD, Southeast Michigan District Office, 27700 Donald Court, Warren, Michigan 48092-2793.

19. A generator who makes a claim that a material is not a waste and that it is considered still a usable product must demonstrate that the waste is not speculatively accumulated. This means that the material must be demonstrated to be potentially recyclable and has a feasible means of being recycled. Additionally, during the calendar year commencing on January 1, the amount of material that is recycled or transferred to a different site for recycling equals not less than 75 percent by weight or volume of the amount of that material accumulated at the beginning of the period (Part 111, Rule 202 (4)(c)).

- a. Approximately 300 five-gallon containers of calcium carbide, a water reactive compound, are being stored in the northeast end of the Slab Handling and Storage Building. Mr. Zwack stated that DSC was attempting to recycle or otherwise find a user for this product. DSC must demonstrate that the material has not been speculatively accumulated, or the calcium carbide must be properly disposed of as a hazardous waste.
 - b. Sulfuric acid remains in equipment in the Acid Pickling Line. DSC must demonstrate that the material has not been speculatively accumulated, or the sulfuric acid must be properly disposed of as a hazardous waste.
20. Used Oil must only be stored in tanks or containers (40 CFR, Section 279.22 (a)). *De minimus* quantities of used oil in wastewater is not regulated as used oil (40 CFR, Section 279.10 (f)).

The quantity of used oil being released to the Sedimentation Basin from the facility is not a *de minimus* quantity and must be controlled at the source within the plant. A plan must be prepared that describes how DSC will prevent this oil from entering the Sedimentation Basin. Additionally, *de minimus* quantities of oil may be treated through the on-site wastewater treatment plant; therefore, DSC must maintain the facility's permit (National Pollutant Discharge Elimination System Permit No. MI0002399) for the wastewater treatment plant as required by law. The existing permit is due to expire on October 1, 2007.

The DEQ is in receipt of your July 2, 2007, letter to Mr. Brian Kelly of the U.S. EPA in which DSC details the actions and time frame for completing those actions to consolidate, characterize, and properly manage the containerized wastes. Your letter also describes the actions that will be taken to address the floating oil in the Sedimentation Basin, security issues, and the concerns raised by the U.S. FWS regarding exposures to wildlife.

In addition to the actions described by DSC's July 2, 2007, letter, DSC shall immediately initiate any actions specified above and all other actions necessary to correct the cited violations. Additionally, please submit documentation to this office regarding those actions taken or to be taken to address the violations and address the issues listed above by September 30, 2007. The DEQ will evaluate your response, determine DSC's compliance status at the above-referenced location, and determine the need for a referral to the U.S. EPA to undertake emergency response actions to remove the accumulation of alleged hazardous waste and waste oils.

At a minimum, your response should detail the actions taken to correct the violations, what steps are being taken to prevent reoccurrence of the violations, and the duration of the violations, including when the violations were corrected and whether the violations are ongoing. If the violations are not resolved by the date of your response, your response should include a work plan that describes what equipment will be installed, procedures that will be implemented, processes or process equipment that will be shut down, or

Mr. Matthew Zwack
Mr. Michael Wilkinson

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other actions that will be taken and by what dates these actions will take place to resolve the violations.

This Letter of Warning does not preclude, nor limit, the DEQ's ability to initiate any action to enforce the CACO or other enforcement action under state or federal law, as deemed appropriate.

If you have any questions regarding this matter, please feel free to contact me at the telephone number listed below or by e-mail at yordanid@michigan.gov.

Sincerely,



Dan Yordanich
Enforcement Section
Waste and Hazardous Materials Division
517-241-9540

Enclosure

cc: Mr. Richard Barr, Honigman Miller Schwartz and Cohn
Mr. Brian M. Kelly, U.S. EPA, Grosse Ile
Ms. Diane M. Sharrow, U.S. EPA, Region 5
Mr. Kenneth Zolnierczyk, U.S. EPA, Region 5
Mr. David Michalak, Trenton Fire Department
Mr. Virgil Maiani, Trenton Building Department
Mr. John Craig, MDEQ
Mr. Lonnie Lee, MDEQ
Mr. Lawrence AuBuchon, MDEQ
Mr. Richard Conforti, MDEQ